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Senator Tom Begich  
*Senate Democratic Leader*



Senator Bill Wielechowski

ALASKA SENATE DEMOCRATS

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October 29, 2019

The Honorable Michael J. Dunleavy  
Governor of Alaska  
Alaska State Capital, Third Floor  
Juneau, AK 99801

Dear Governor Dunleavy,

Earlier this month, several members of the Legislature sent you a letter requesting you to reverse course on your unilateral decision to end the Alaska Hire program through nonenforcement of the law. Attorney General Kevin Clarkson responded on October 10 indicating that your action is based on a belief that the current Alaska resident hiring preference program pursuant to AS 36.10.150 is unconstitutional.

We recently received an opinion from our nonpartisan legislative legal attorneys observing that “[n]o controlling authority establishes that AS 36.10.150 is clearly unconstitutional”—while the power to declare a law unconstitutional “is the province of the court.” Accordingly, nonenforcement of the Alaska Hire enactment violates the constitutional principle of separation of powers.

There is an additional serious concern that this nonenforcement action appears based on the misguided advice of the Attorney General. As the memo explains, it is “premature” and “outside of the attorney general’s authority to declare AS 36.10.150 unconstitutional and direct others to refuse to enforce it.” The opinion in fact notes that the Attorney General’s failure to enforce Alaska Hire and failure to prosecute and impose fines for violations of the law appear to violate his express statutory duties under AS 44.23.020.

The opinion of our legislative counsel is attached.

We urge you again to re-think your position on Alaska Hire, to reverse your decision and take immediate action to defend the law.

Sincerely,

A handwritten signature in blue ink that reads "Bill Wielechowski".

Senator Bill Wielechowski

A handwritten signature in blue ink, appearing to be "TB", with a long horizontal line extending to the right.

Senator Tom Begich

Attachment: As stated